

**CALENDAR ITEM
C61**

A 78
S 39

06/28/16
PRC 8716.1
R. Collins

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

Las Brisas Condominium Association, Inc.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, adjacent to 135 South Sierra Avenue, city of Solana Beach, San Diego County.

AUTHORIZED USE:

Use and maintenance of an existing 120-foot long, 35-foot high, 2-foot-4-inch wide colored and textured concrete tiedback seawall, concrete backfill and fill of seacave/notches with a 5-foot long, 35-foot high, 2-foot-4-inch wide return wall.

LEASE TERM:

12 years, beginning October 12, 2016.

CONSIDERATION:

\$1,550 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount of no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6321 and 6321.2;
California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The upland property is improved with a 36-unit condominium development built in the early 1970s. The development is situated along an 80-foot tall bluff and in early 2004, the lower bluff in front of the condominiums

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experienced a bluff failure. In October 2005, the California Coastal Commission permitted the construction of a 120-foot long, 35-foot high, 2-foot-4-inch wide colored and textured concrete tiedback seawall, concrete backfill, and fill of seacave/notches under CDP #6-05-072. Only a small portion of the northernmost section of the existing seawall encroaches on sovereign land, and has been under lease since 2006. The seawall has been expanded since 2006, but not onto sovereign land (CDP #6-05-072-A1), based on existing evidence currently known to Commission staff.

Fletcher Cove Beach Park is located approximately 120 feet to the north of the seawall. The Las Brisas Condominium project was originally required to provide a 10-foot wide public access easement paralleling the upper edge of the bluff allowing for public views of the shoreline. The public viewing area is accessed from an existing public access stairway leading from the public parking lot at Fletcher Cove Park.

The proposed lease is for a very small area, approximately 187 square feet, and the seawall is located at the base of the bluff to protect against bluff failure and protect the condominiums on top of the bluff. Many seawalls and sea cave infills exist along the bluff in Solana Beach. These seawalls also provide for the health and safety of the public by protecting them from bluff failure while recreating on the beach.

Adverse effects related to protective structures in Solana Beach include increased beach erosion, interference with natural sand supply, loss of public beach, and potential impacts on flora and fauna as a result of encroachment by these protective structures into the beach environment. Various beach nourishment programs have been conducted by city and regional governing bodies, and sand-loss mitigation fees have been implemented as a requirement for new Coastal Development Permits to mitigate for these impacts, by helping to maintain a wide sandy beach for public access and recreation.

The lease is limited to a 12-year term and does not grant the Lessee exclusive rights to the lease premises. The proposed lease requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with the public trust needs at this location, at this time and for the foreseeable term of the proposed lease, and is in the State's best interests.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On November 1, 2006, the Commission authorized a General Lease – Protective Structure Use to Las Brisas Condominium Association, Inc., for a term of 10 years beginning October 12, 2006. The lease will expire October 11, 2016. The Applicant is now applying for a General Lease – Protective Structure Use. The Applicant has requested a 12-year lease term so that the expiration of the lease more closely coincides with the expiration of its CDP from the Coast Commission.
3. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.
4. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a

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categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the public trust needs and values at this location at this time; find these actions are consistent with the common law Public Trust Doctrine and are in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to Las Brisas Condominium Association, Inc., beginning October 12, 2016, for a term of 12 years, for use and maintenance of an existing 120-foot long, 35-foot high, 2-foot-4-inch wide colored and textured concrete tiedback seawall, concrete backfill and fill of seacave/notches with a 5-foot long, 35-foot high, 2-foot-4-inch wide return wall as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$1,550, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8716.1

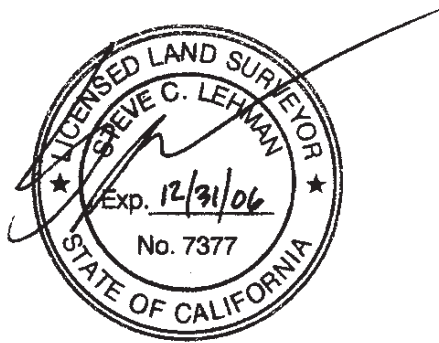
LAND DESCRIPTION

A parcel of tide and submerged land situated in Solana Beach, San Diego County, State of California, being more particularly described as follows:

BEGINNING at a point having a CCS 83 coordinate of North = 1941711.84 and East = 6247557.86, which bears North 64°07'02" East, 463.94 feet to a lead and tack with disc marked R.C.E 9490 as shown on that certain map entitled "Las Brisas" filed as Map No. 7999 San Diego County Records, thence South 60°24'13" West, 6.10 feet; thence South 18°58'58" East, 32.71 feet; thence North 71°01'02" East, 2.00 feet; thence North 13°26'23" East, 7.46 feet; thence N 18°58'58" W, 27.53 feet to the POINT OF BEGINNING.

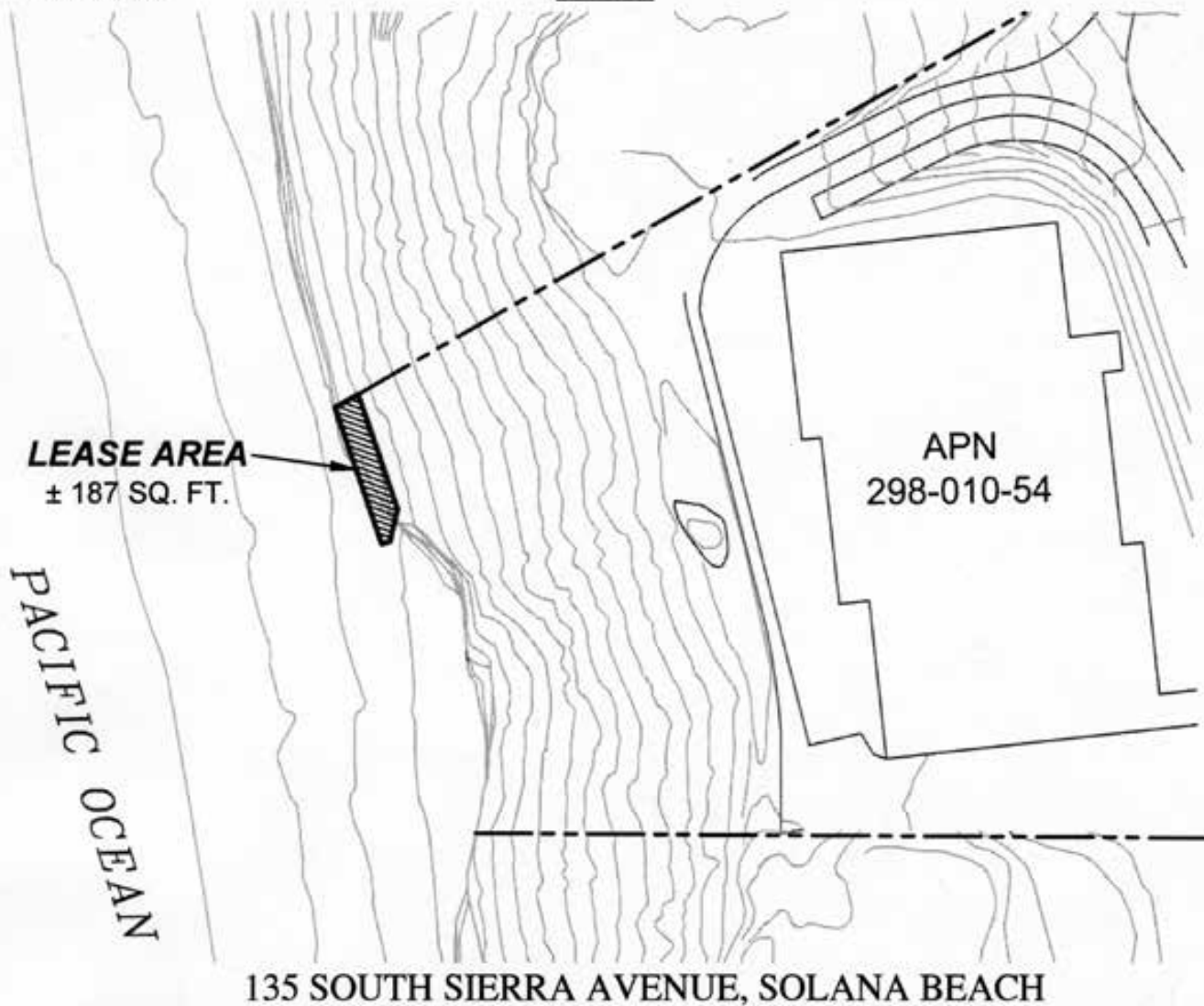
EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

END OF DESCRIPTION



NO SCALE

SITE



NO SCALE

LOCATION



Exhibit B

PRC 8716.1
LAS BRISAS CONDOMINIUM
ASSOCIATION, INC.
APN 298-010-54
GENERAL LEASE -
PROTECTIVE STRUCTURE USE
SAN DIEGO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

TS 04/26/16